

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

**JOE BALLARD,**

**Plaintiff,**

**v.**

**MATTHEW FRAZIER, JAMES BOHANON,  
and THADDEUS ESPY,**

**Defendants.**

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**Case No. 08-CV-0256-CVE-SAJ**

**OPINION AND ORDER**

On September 26, 2008, the Court filed an Opinion and Order (Dkt. # 21) finding that defendant Thaddeus Espy was entitled to qualified immunity on plaintiff's claims of unlawful seizure and unlawful arrest. The Court also found that plaintiff had not stated a claim for excessive force against Espy, but it was possible that plaintiff could file an amended complaint alleging sufficient facts to state an excessive force claim against Espy. Therefore, the Court granted plaintiff leave to file an amended complaint including specific factual allegations supporting his excessive force claim. Plaintiff's amended complaint was due no later than October 11, 2008, but no amended complaint was filed. On October 16, 2008, the Court ordered plaintiff to comply with the Opinion and Order no later than October 27, 2008, or his remaining claim against Espy would be dismissed for failure to state a claim upon which relief can be granted. Plaintiff has not filed an amended complaint against Espy. Accordingly, plaintiff's case is dismissed.

**IT IS THEREFORE ORDERED** that plaintiff's remaining claim against Espy is dismissed for failure to state a claim upon which relief can be granted. A separate judgment of dismissal will be entered herewith.

**DATED** this 3rd day of November, 2008.

  
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CLAIRE V. EAGAN, CHIEF JUDGE  
UNITED STATES DISTRICT COURT